CLOSED CASE SUMMARY



ISSUED DATE: APRIL 12, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS

OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 20210PA-0399

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not	Not Sustained - Inconclusive
	Engage in Bias-Based Policing	
# 2	5.001 - Standards and Duties 5.001-POL 10. Employees Will	Not Sustained - Unfounded
	Strive to be Professional	

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant alleged that Named Employee #1 (NE#1) engaged in bias-based policing and was unprofessional.

SUMMARY OF INVESTIGATION:

The Complainant alleged that NE#1 made prejudicial comments toward her during a call, which the Complainant alleged were based on her race/economic status. Additionally, the Complainant alleged that NE#1 shouted at her and criticized her attitude. A supervisor screened these allegations and referred them to OPA via Blue Team.

OPA opened this investigation. During its investigation, OPA reviewed the complaint, CAD Call Report, Incident Report and Supplements, and Body Worn Video (BWV). OPA also interviewed NE#1.

NE#1 responded to a disturbance call at the Salvation Army Shelter which reported, "Female susp poss high or intox/ crisis yelling at [rp] and following her around. Caller now screaming on the line." NE#1 was the primary officer who attended the call, and he was assisted by a backing officer, Witness Officer #1 (WO#1). NE#1 reported the call as being a disagreement between two residents who were living at the shelter. All relevant conversation was captured on NE#1's BWV.

BWV depicted NE#1 obtaining both versions of the events from each involved party. The disturbance centered around the Complainant alleging that another resident was "yelling at (her) and following (her)." After speaking with both parties and obtaining their respective version of events, NE# 1 also spoke with a staff member at the shelter. NE#1 determined that the call was of a non-criminal in nature. NE#1 explained the non-criminal nature of the incident to both parties and the staff and advised the Complainant of the appropriate reporting mechanisms within the shelter.



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ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1 5.140 – Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#1 engaged in bias-based policing.

SPD policy prohibits biased policing, which it defines as "the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual." (SPD Policy 5.140-POL.) This includes different treatment based on the race of the subject. *Id.* Moreover, "[e]mployees shall not express—verbally, in writing, or by other gesture—any prejudice or derogatory comments concerning discernible personal characteristics." *Id.*

The Complainant alleged that NE#1 engaged in bias-based policing during his engagement with her. The Complainant alleged that she overheard NE#1 talking about how disgusting "Bougie" people were. The Complainant explained to OPA that when "Bougie" was used between two black people that this was an insult and referred to a black person who acted "too white" or who was "too assimilated." The Complainant stated that she felt targeted because she believed that the Officer thought she was "not a good enough black person" or "not black enough."

OPA reviewed BWV of the incident and noted that NE#1 used the term "Bougie" in conversation with a staff member. A member of the staff wanted NE#1 to see the Complainant's room, which was in apparent disarray, to compare it to the other involved party's tidier room. NE#1 asked, "Why? Does she have a chocolate fountain or what?" The staff member replied, "Uh –huh, something like that." NE#1 replied, "Oh so she is Bougie, ok, I got you, she Bougie." NE#1's use of the term appeared to be a reference to a room, as opposed to a person, being "Bougie." OPA noted that the statement, and the context in which it was stated, was not perceived to be derogatory.

Throughout the incident, NE#1 did not make any reference to race or skin color of any of the parties involved. OPA noted that both NE#1, the Complainant, the other involved party, and the staff at the shelter were all the same race. NE#1 stated that his comments had nothing to do with race. A review of BWV does not show any use of racially charged language or racial specific comments. NE#1 stated that his use and understanding of the term "Bougie" meant "nice things" and "middle class" and it was connected to him witnessing some "nice clothing" that was sitting on a bunk. NE#1 stated that he did not know who the bunk belonged to.

OPA noted that, when NE#1 was leaving, the staff member thanked him and stated, "you did excellent, particularly the break down and all." NE#1 left stating that he would document the nights events to assist in building a clearer picture for any future events and that he would leave her (the staff member) to enjoy her cup of tea in her "Bougie penthouse suite, overlooking the view" to which she laughed.

OPA accepts that the Complainant understood the term "Bougie" differently than NE#1. The Complainant stated that she felt targeted because she believed that NE#1 thought she was "not a good enough black person." OPA is unable to identify any independent evidence to support the Complainant's assumption in either the actions or conversations NE#1 had with the Complainant or other involved parties. OPA, however cannot negate the Complainant's belief or perceptions relative to the term used. Moreover, OPA recognizes—without claiming any expertise—that there

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appears to be significant public discourse pertaining to the meaning of the term "Bougie," its use, and its appropriation.¹

Accordingly, OPA recommends that this allegation be Not Sustained – Inconclusive.

Recommended Finding: Not Sustained - Inconclusive

Named Employee #1 - Allegation #2 5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional

The Complainant alleged that NE#1 was unprofessional.

SPD Policy 5.001-POL-10 requires that SPD employees "strive to be professional." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers" whether on or off duty. (SPD Policy 5.001-POL-10.) The policy further states the following: "Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person." (Id.) Lastly, the policy instructs Department employees to "avoid unnecessary escalation of events even if those events do not end in reportable uses of force." (Id.)

The Complainant alleged that NE#1 shouted at her and criticized her attitude. The Complainant specifically alleged that NE#1 yelled in her face, told her to shut up, and rudely stated she had a nasty attitude. The Complainant further alleged that the NE had a rude tone of voice when he left the call and said "have a nice day."

OPA's review of NE#1's BWV did not align with the Complainant's version of events. BWV supported the explanation given by NE#1. NE#1 spoke and listened to both parties and attempted to reach a resolution. NE#1 also involved the staff at the shelter to try and prevent a reoccurrence. NE#1 also said that he tried to explain the non-criminal nature of the call to all the involved parties, including the staff member.

BWV showed that the NE#1 intervened while the Complainant was yelling at a shelter staff with the words "Excuse me!" and when the yelling continued the NE#1 told the Complainant to "walk away." Neither one of those instances appeared to be yelling, only a louder voice. In his OPA interview, NE#1 stated that he used the trained LEED model approach, namely Listen and Explain with Equity and Dignity. OPA recognizes that this is a "firm but fair" approach when dealing with disputing parties and can be effective particularly when dealing with those who will not listen to a reasonable solution being offered.

The Complainant alleged that NE#1 was rude in his tone when he was leaving the building when he stated, "Have a nice day." OPA noted that when NE#1 was leaving the staff member thanked him and stated, "you did excellent, particularly the break down and all." NE#1 thanked her and left stating that he would document the events to assist in building a clearer picture and that he would leave her (the staff member) to enjoy her cup of tea in her "Bougie penthouse suite, overlooking the view," to which she laughed.

¹ See, e.g., Sophia Tulp, What You're Really Saying When You Call Something "Bougie," USA TODAY, June 30, 2017; @tressiemcphd, Twitter (Jan. 14, 2017, 7:10 PM), https://twitter.com/tressiemcphd/status/820468142673694720; @IjeomaOluo, Twitter (Dec. 18, 2019, 10:47 PM), https://twitter.com/ijeomaoluo/status/1207553077269516288.



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As NE#1 was exiting, the Complainant approached him and said "Would you like to shout more in my face again. I hope no one treats your daughter like that." NE#1 responded "have a nice day," "Thank you very much, you as well," and "Stay safe." OPA does not believe that anything that NE#1 said, in his words, tone or delivery rose to a level unprofessionalism.

Accordingly, OPA recommends that this allegation be Not Sustained - Unfounded.

Recommended Finding: **Not Sustained - Unfounded**